

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SIFA TUIAKI and LUPE TUIAKI,

No. C 07-2257 CW

Plaintiffs,

ORDER GRANTING  
PAULEY  
CONSTRUCTION,  
INC.'S MOTION TO  
REMAND TO STATE  
COURT

v.

PACIFIC GAS & ELECTRIC COMPANY,  
PAULEY CONSTRUCTION, INC., TRAFFIC  
SOLUTIONS, INC., ADELPHIA  
TELECOMMUNICATIONS CO., INC., SBC  
TELECOMMUNICATIONS, INC., MOBILE TOOL  
INTERNATIONAL, INC., dba TELSTA,  
COUNTY OF MENDOCINO, STATE OF  
CALIFORNIA, PACIFIC BELL TELEPHONE  
COMPANY, PACIFIC TELESIS GROUP, SBC  
OPERATIONS, INC., and DOES 1 to 50,

Defendants.

ADELPHIA COMMUNICATIONS CORPORATION  
aka CENTURY MENDOCINO CABLE TV dba  
ADELPHIA CABLE COMMUNICATIONS,

Cross-claimant,

v.

PAULEY CONSTRUCTION, INC.,

Cross-defendant.

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1       Cross-defendant Pauley Construction has filed a motion to  
2 remand this action to state court. Cross-claimant Adelphia  
3 Communications Corporation (Adelphia) opposes this motion. The  
4 matter was heard on June 28, 2007. Having considered all of the  
5 papers filed by the parties and oral argument on the motion, the  
6 Court GRANTS Pauley's motion to remand.

7       As the Court noted at the hearing, this proceeding, Adelphia's  
8 cross-claim for indemnity against Pauley Construction, is not a  
9 core proceeding under the Bankruptcy Code, but is merely related to  
10 Adelphia's bankruptcy case. Thus, this Court has non-exclusive  
11 jurisdiction over it. 28 U.S.C. § 1334(b). Contrary to Adelphia's  
12 contention, the outcome of this indemnity action is a separate  
13 matter from Adelphia's payment to Pauley in the bankruptcy case.  
14 The state court is well suited to hear Adelphia's indemnity cross-  
15 claim, as it involves state law issues of negligence and contract  
16 law. Furthermore, Adelphia could have originally brought this  
17 claim in federal court but chose to sue Pauley in state court.  
18 Finally, under either 28 U.S.C. § 1446(b) or Federal Rule of  
19 Bankruptcy Procedure 9027(a)(3), Adelphia's notice of removal was  
20 untimely.

21       For the foregoing reasons, Pauley's motion to remand to state  
22 court is GRANTED.

23       IT IS SO ORDERED.

24  
25 Dated: 7/2/07



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CLAUDIA WILKEN  
United States District Judge

**United States District Court**  
For the Northern District of California

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